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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,195	06/13/2001	Kelvin Brian Dickinson	J3544(C)	6049

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UNILEVER
PATENT DEPARTMENT
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EXAMINER	
GOLLAMUDI, SHARMILA S	
ART UNIT	**PAPER NUMBER**
1616	

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/880,195	DICKINSON ET AL.	
	Examiner	Art Unit	
	Sharmila S. Gollamudi	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,6-9,12 and 13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,6-9,12 and 13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Receipt for Request for Continued Examination filed on November 28, 2003 is acknowledged. Claims 1, 6-9, and 12-13 are pending in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Kawasaki et al (5,556,970).

Kawasaki et al disclose a hair oil composition containing 33% liquid paraffin (70 seconds) (mineral oil) and 33% castor oil. The reference discloses that the hair oil is not sticky in use and gave appropriate sheen to the hair. See example 51.

*Note that 70 seconds is the viscosity measurement in Saybolts (SSU). The conversion factor is as follows: 70 SSU= cSt * 4.55. Thus, 15.39 cSt * 0.914 (density)= cps The cps 14.07 or 0.014 Pa.s. The examiner has attached the art of interest to show the conversion factors.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 6-9, and 12 are rejected under 35 U.S.C. 103(a) as being anticipated by Kawasaki et al (5,556,970) by itself or in view of French Patent 838,699 to Dickeson.

Kawasaki et al disclose a hair oil composition containing 33% liquid paraffin (70 seconds) (mineral oil) and 33% castor oil. The reference discloses that the hair oil is not sticky in use and gave appropriate sheen to the hair. See example 51.

Kawasaki et al does not teach the use of instant vegetable oils (coconut oil or olive oil).

Dickeson teaches hair oil containing 10-40% almond oil, 10-40% paraffin oil, and activated aqueous gelatinous alumina with or without additional water. See example 13. Dickeson teaches the use of vegetables oil such as olive oil, almond oil, castor oil, linseed oil, coconut oil, and sesame oil. See page 2.

It is deemed obvious to one of ordinary skill in the art at the time the invention was made to utilize the instant vegetable oil in Kawasaki's composition. One would be motivated to do so with the expectation of similar results since castor oil and the instant

oils are all vegetable oils that contain glyceride fatty esters that act as the emollient active in the composition.

Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to look to the teachings of Dickeson and utilize the instant vegetable oils in Kawasaki's hair oil composition. One would be motivated to do so with the expectation of similar results since Dickeson's teaches the functional equivalence of castor oil and the instant oils in that they are all vegetable oils conventionally used in hair industry.

Claims 1, 6- 9, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent 838,699 to Dickeson in view of Jones (5,116,607).

Dickeson teaches hair oil containing 10-40% almond oil, 10-40% paraffin oil, and activated aqueous gelatinous alumina with or without additional water. See example 13.

Dickeson does not specify if the paraffin oil is light.

It is deemed obvious to one of ordinary skill in the art at the time the invention was made to look to the guidance provided by Dickeson and utilize light paraffin oil. One would be motivated to do so depending on the desired viscosity of the product since it is known in the cosmetic art that light paraffin oil is less viscous than heavy paraffin oil. Furthermore, the method step of applying the hair oil is implicit since Dickenson teaches a hair oil composition.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to look to the teachings of Jones and utilize light paraffin oil. One

would be motivated to do so since Jones teaches the state of the prior art and the known and conventional use of light mineral oil in hair conditioning compositions.

Claims 1, 6-9, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0546235 by itself or in view of Jones (5,116,607).

EP teaches a hair-restorer containing a mixture of castor oil, almond oil, olive oil, and coconut oil in equal proportions for application to the scalp. Glycerol or paraffin oil may be added. See abstract and page 5. The example teaches 1/6 parts of each ingredient.

EP does not specify if the paraffin oil is light.

Jones teaches a hair dressing to moisturize the hair and scalp. See column 1, lines 9-13. The composition contains an array of oils including light mineral oil, olive oil, coconut oil, etc. See column 1 in its entirety and especially, line 42.

It is deemed obvious to one of ordinary skill in the art at the time the invention was made to look to the guidance provided by EP and utilize light paraffin oil. One would be motivated to do so depending on the desired viscosity of the product since it is known in the cosmetic art that light paraffin oil is less viscous than heavy paraffin oil.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to look to the teachings of Jones and incorporate light mineral oil into the hair composition of EP. One would be motivated to do so since Jones teaches the state of the prior art and the known and conventional use of light mineral oil in hair conditioning compositions.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is 571-242-0614. The examiner can normally be reached on M-F (8:00-5:00) with every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SSG

April 7, 2004

MICHAEL G. HARTLEY
PRIMARY EXAMINER